



General Assembly

**Substitute Bill No. 6399**

January Session, 2009

\* \_\_\_\_\_HB06399HS\_\_\_\_\_031709\_\_\_\_\_\*

**AN ACT CONCERNING CHILD PROTECTION.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (b) of section 46b-129 of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective*  
3 *October 1, 2009*):

4 (b) If it appears from the specific allegations of the petition and  
5 other verified affirmations of fact accompanying the petition and  
6 application, or subsequent thereto, that there is reasonable cause to  
7 believe that (1) the child or youth is suffering from serious physical  
8 illness or serious physical injury or is in immediate physical danger  
9 from the child's or youth's surroundings, and (2) that as a result of said  
10 conditions, the child's or youth's safety is endangered and immediate  
11 removal from such surroundings is necessary to ensure the child's or  
12 youth's safety, the court shall either (A) issue an order to the parents or  
13 other person having responsibility for the care of the child or youth to  
14 appear at such time as the court may designate to determine whether  
15 the court should vest in some suitable agency or person the child's or  
16 youth's temporary care and custody pending disposition of the  
17 petition, or (B) issue an order ex parte vesting in some suitable agency  
18 or person the child's or youth's temporary care and custody. A  
19 preliminary hearing on any ex parte custody order or order to appear  
20 issued by the court shall be held not later than ten days after the

21 issuance of such order. The service of such orders may be made by any  
22 officer authorized by law to serve process, or by any probation officer  
23 appointed in accordance with section 46b-123, investigator from the  
24 Department of Administrative Services, state or local police officer or  
25 indifferent person. Such orders shall include a conspicuous notice to  
26 the respondent written in clear and simple language containing at least  
27 the following information: (i) That the order contains allegations that  
28 conditions in the home have endangered the safety and welfare of the  
29 child or youth; (ii) that a hearing will be held on the date on the form;  
30 (iii) that the hearing is the opportunity to present the parents' position  
31 concerning the alleged facts; (iv) that an attorney will be appointed for  
32 parents who cannot afford an attorney; (v) that such parents may  
33 apply for a court-appointed attorney by going in person to the court  
34 address on the form and are advised to go as soon as possible in order  
35 for the attorney to prepare for the hearing; and (vi) if such parents  
36 have any questions concerning the case or appointment of counsel, any  
37 such parent is advised to go to the court or call the clerk's office at the  
38 court as soon as possible. Upon application for appointed counsel, the  
39 court shall promptly determine eligibility and, if the respondent is  
40 eligible, promptly appoint counsel. The expense for any temporary  
41 care and custody shall be paid by the town in which such child or  
42 youth is at the time residing, and such town shall be reimbursed for  
43 such expense by the town found liable for the child's or youth's  
44 support, except that where a state agency has filed a petition pursuant  
45 to the provisions of subsection (a) of this section, the agency shall pay  
46 such expense. The agency shall give primary consideration to placing  
47 the child or youth in the town where such child or youth resides. The  
48 agency shall file in writing with the clerk of the court the reasons for  
49 placing the child or youth in a particular placement outside the town  
50 where the child or youth resides. Upon issuance of an ex parte order,  
51 the court shall provide to the commissioner and the parent or guardian  
52 specific steps necessary for each to take to address the ex parte order  
53 for the parent or guardian to retain or regain custody of the child or  
54 youth and, if custody is vested in the Department of Children and  
55 Families, authorize the commissioner or the commissioner's designee

56 to provide the child with all necessary care, including medical care,  
57 which may include an examination by a physician or mental health  
58 professional with or without the consent of the child's parent, guardian  
59 or other person responsible for the child's care. Upon the issuance of  
60 such order, or not later than sixty days after the issuance of such order,  
61 the court shall make a determination whether the Department of  
62 Children and Families made reasonable efforts to keep the child or  
63 youth with his or her parents or guardian prior to the issuance of such  
64 order and, if such efforts were not made, whether such reasonable  
65 efforts were not possible, taking into consideration the child's or  
66 youth's best interests, including the child's or youth's health and safety.

67 Sec. 2. Subsection (j) of section 46b-129 of the general statutes is  
68 repealed and the following is substituted in lieu thereof (*Effective*  
69 *October 1, 2009*):

70 (j) Upon finding and adjudging that any child or youth is uncared-  
71 for, neglected or dependent, the court may commit such child or youth  
72 to the Commissioner of Children and Families. Such commitment shall  
73 remain in effect until further order of the court, except that such  
74 commitment may be revoked or parental rights terminated at any time  
75 by the court, or the court may vest such child's or youth's care and  
76 personal custody in any private or public agency that is permitted by  
77 law to care for neglected, uncared-for or dependent children or youths  
78 or with any person or persons found to be suitable and worthy of such  
79 responsibility by the court. The court shall order specific steps that the  
80 parent must take to facilitate the return of the child or youth to the  
81 custody of such parent. The commissioner shall be the guardian of  
82 such child or youth for the duration of the commitment, provided the  
83 child or youth [has not reached] is under the age of eighteen years [or,  
84 in the case of a child or youth in full-time attendance in a secondary  
85 school, a technical school, a college or a state-accredited job training  
86 program, provided such child or youth has not reached the age of  
87 twenty-one years, by consent of such youth,] or until another guardian  
88 has been legally appointed, and in like manner, upon such vesting of  
89 the care of such child or youth, such other public or private agency or

90 individual shall be the guardian of such child or youth until such child  
91 or youth has reached the age of eighteen years [or, in the case of a child  
92 or youth in full-time attendance in a secondary school, a technical  
93 school, a college or a state-accredited job training program, until such  
94 child or youth has reached the age of twenty-one years] or until  
95 another guardian has been legally appointed. Any youth age eighteen  
96 to twenty-one, inclusive, who is in full-time attendance in a secondary  
97 school, a technical school, a college or a state-accredited job training  
98 program may continue to remain voluntarily under the supervision of  
99 the commissioner, pursuant to section 17a-11. The commissioner may  
100 place any child or youth so committed to the commissioner in a  
101 suitable foster home or in the home of a person related by blood to  
102 such child or youth or in a licensed child-caring institution or in the  
103 care and custody of any accredited, licensed or approved child-caring  
104 agency, within or without the state, provided a child shall not be  
105 placed outside the state except for good cause and unless the parents  
106 or guardian of such child are notified in advance of such placement  
107 and given an opportunity to be heard, or in a receiving home  
108 maintained and operated by the Commissioner of Children and  
109 Families. In placing such child or youth, the commissioner shall, if  
110 possible, select a home, agency, institution or person of like religious  
111 faith to that of a parent of such child or youth, if such faith is known or  
112 may be ascertained by reasonable inquiry, provided such home  
113 conforms to the standards of said commissioner and the commissioner  
114 shall, when placing siblings, if possible, place such children together.  
115 As an alternative to commitment, the court may place the child or  
116 youth in the custody of the parent or guardian with protective  
117 supervision by the Commissioner of Children and Families subject to  
118 conditions established by the court. Upon the issuance of an order  
119 committing the child or youth to the Commissioner of Children and  
120 Families, or not later than sixty days after the issuance of such order,  
121 the court shall determine whether the Department of Children and  
122 Families made reasonable efforts to keep the child or youth with his or  
123 her parents or guardian prior to the issuance of such order and, if such  
124 efforts were not made, whether such reasonable efforts were not

125 possible, taking into consideration the child's or youth's best interests,  
126 including the child's or youth's health and safety.

127 Sec. 3. Subdivision (1) of subsection (k) of section 46b-129 of the  
128 general statutes is repealed and the following is substituted in lieu  
129 thereof (*Effective October 1, 2009*):

130 (k) (1) Nine months after placement of the child or youth in the care  
131 and custody of the commissioner pursuant to a voluntary placement  
132 agreement, or removal of a child or youth pursuant to section 17a-101g  
133 or an order issued by a court of competent jurisdiction, whichever is  
134 earlier, the commissioner shall file a motion for review of a  
135 permanency plan. Nine months after a permanency plan has been  
136 approved by the court pursuant to this subsection, the commissioner  
137 shall file a motion for review of the permanency plan. Any party  
138 seeking to oppose the commissioner's permanency plan shall file a  
139 motion in opposition not later than thirty days after the filing of the  
140 commissioner's motion for review of the permanency plan, which  
141 motion shall include the reason therefor. A permanency hearing on  
142 any motion for review of the permanency plan shall be held not later  
143 than ninety days after the filing of such motion. The court shall hold  
144 evidentiary hearings in connection with any contested motion for  
145 review of the permanency plan. The commissioner shall have the  
146 burden of proving that the proposed permanency plan is in the best  
147 interests of the child or youth. After the initial permanency hearing,  
148 subsequent permanency hearings shall be held not less frequently than  
149 every twelve months while the child or youth remains in the custody  
150 of the Commissioner of Children and Families. The court shall provide  
151 notice to the child or youth, and the parent or guardian of such child or  
152 youth of the time and place of the court hearing on any such motion  
153 not less than fourteen days prior to such hearing. In addition to the  
154 review required by this subdivision, if (A) a child is under the age of  
155 six years and in the care and custody of the commissioner, and (B) the  
156 permanency plan for such child is reunification with the parent, the  
157 court shall review, not later than six months after each permanency  
158 hearing, the parent's progress in regaining custody of such child and

159 may revise the specific steps in such permanency plan for the parent  
160 and the commissioner.

161 Sec. 4. Subsection (f) of section 17a-28 of the general statutes is  
162 repealed and the following is substituted in lieu thereof (*Effective*  
163 *October 1, 2009*):

164 (f) The commissioner or the commissioner's designee shall, upon  
165 request, promptly provide copies of records, without the consent of a  
166 person, to (1) a law enforcement agency, (2) the Chief State's Attorney,  
167 or the Chief State's Attorney's designee, or a state's attorney for the  
168 judicial district in which the child resides or in which the alleged abuse  
169 or neglect occurred, or the state's attorney's designee, for purposes of  
170 investigating or prosecuting an allegation of child abuse or neglect, (3)  
171 the attorney appointed to represent a child in any court in litigation  
172 affecting the best interests of the child, (4) a guardian ad litem  
173 appointed to represent a child in any court in litigation affecting the  
174 best interests of the child, (5) the Department of Public Health, which  
175 licenses any person to care for children for the purposes of  
176 determining suitability of such person for licensure, subject to the  
177 provisions of sections 17a-101g and 17a-101k, (6) any state agency  
178 which licenses such person to educate or care for children pursuant to  
179 section 10-145b or 17a-101j, subject to the provisions of sections 17a-  
180 101g and 17a-101k concerning nondisclosure of findings of  
181 responsibility for abuse and neglect, (7) the Governor, when requested  
182 in writing, in the course of the Governor's official functions or the  
183 Legislative Program Review and Investigations Committee, the joint  
184 standing committee of the General Assembly having cognizance of  
185 matters relating to the judiciary and the select committee of the  
186 General Assembly having cognizance of matters relating to children  
187 when requested in the course of said committees' official functions in  
188 writing, and upon a majority vote of said committee, provided no  
189 names or other identifying information shall be disclosed unless it is  
190 essential to the legislative or gubernatorial purpose, (8) a local or  
191 regional board of education, provided the records are limited to  
192 educational records created or obtained by the state or Connecticut-

193 Unified School District #2, established pursuant to section 17a-37, (9) a  
194 party, a judge or personnel in the Court Support Services Division of  
195 the Judicial Department in a custody proceeding under section 17a-  
196 112, as amended by this act, or 46b-129, as amended by this act, in the  
197 Superior Court where such records concern a child who is the subject  
198 of the proceeding or the parent of such child, (10) the Chief Child  
199 Protection Attorney, or his or her designee, for purposes of ensuring  
200 competent representation by the attorneys whom the Chief Child  
201 Protection Attorney contracts with to provide legal and guardian ad  
202 litem services to the subjects of such records and to ensure accurate  
203 payments for services rendered by such contract attorneys, and (11)  
204 the Department of Motor Vehicles, for purposes of checking the state's  
205 child abuse and neglect registry pursuant to subsection (e) of section  
206 14-44. A disclosure under this section shall be made of any part of a  
207 record, whether or not created by the department, provided no  
208 confidential record of the Superior Court shall be disclosed other than  
209 the petition and any affidavits filed therewith in the superior court for  
210 juvenile matters, except upon an order of a judge of the Superior Court  
211 for good cause shown. The commissioner shall also disclose the name  
212 of any individual who cooperates with an investigation of a report of  
213 child abuse or neglect to such law enforcement agency or state's  
214 attorney for purposes of investigating or prosecuting an allegation of  
215 child abuse or neglect. The commissioner or the commissioner's  
216 designee shall, upon request, subject to the provisions of sections 17a-  
217 101g and 17a-101k, promptly provide copies of records, without the  
218 consent of the person, to (A) the Department of Public Health for the  
219 purpose of determining the suitability of a person to care for children  
220 in a facility licensed under sections 19a-77 to 19a-80, inclusive, 19a-82  
221 to 19a-87, inclusive, and 19a-87b, and (B) the Department of Social  
222 Services for determining the suitability of a person for any payment  
223 from the department for providing child care.

224 Sec. 5. (NEW) (*Effective October 1, 2009*) A substance abuse treatment  
225 provider, upon service of a subpoena issued by a competent authority  
226 regarding a child committed to the care and custody of the

227 Commissioner of Children and Families directing the production of  
228 records in connection with any court proceedings, shall deliver such  
229 original record or a copy of the record to the clerk of the court. The  
230 clerk shall give the provider a receipt for delivery of the record, shall  
231 be responsible for the safekeeping of the record and shall not permit  
232 the record to be removed from the court. The court clerk shall notify  
233 the provider that the record may be returned to the provider when no  
234 longer needed by the court. Any such record delivered by the provider  
235 to the court clerk shall be placed in a sealed envelope that indicates the  
236 name of the child, the name of the attorney subpoenaing the record  
237 and the case name referred to in the subpoena. No such record shall be  
238 open to inspection by any person except upon the order of a judge of  
239 the court concerned, and any such record shall at all times be subject to  
240 the order of such judge. The record, or any part of the record, if not  
241 otherwise inadmissible, shall be admitted in evidence without any  
242 preliminary testimony if there is, attached to the record, a certification  
243 in affidavit form of the person in charge of keeping the provider's  
244 records stating that the record is the original record or a copy of the  
245 record, made in the regular course of the business of the provider, and  
246 that it was the regular course of such business to make such record at  
247 the time of the transactions, occurrences or events recorded therein or  
248 within a reasonable time thereafter.

249 Sec. 6. Subsection (j) of section 17a-112 of the general statutes is  
250 repealed and the following is substituted in lieu thereof (*Effective*  
251 *October 1, 2009*):

252 (j) The Superior Court, upon notice and hearing as provided in  
253 sections 45a-716 and 45a-717, may grant a petition filed pursuant to  
254 this section if it finds by clear and convincing evidence that (1) the  
255 Department of Children and Families has made reasonable efforts to  
256 locate the parent and to reunify the child with the parent in accordance  
257 with subsection (a) of section 17a-111b, unless the court finds in this  
258 proceeding that the parent is unable or unwilling to benefit from  
259 reunification efforts, except that such finding is not required if the  
260 court has determined at a hearing pursuant to section 17a-111b, or



determines at trial on the petition, that such efforts are not required, (2) termination is in the best interest of the child, and (3) (A) the child has been abandoned by the parent in the sense that the parent has failed to maintain a reasonable degree of interest, concern or responsibility as to the welfare of the child; (B) the child (i) has been found by the Superior Court or the Probate Court to have been neglected or uncared for in a prior proceeding, or (ii) is found to be neglected or uncared for and has been in the custody of the commissioner for at least fifteen months and the parent of such child has been provided specific steps to take to facilitate the return of the child to the parent pursuant to section 46b-129, as amended by this act, and has failed to achieve such degree of personal rehabilitation as would encourage the belief that within a reasonable time, considering the age and needs of the child, such parent could assume a responsible position in the life of the child; (C) the child has been denied, by reason of an act or acts of parental commission or omission including, but not limited to, sexual molestation or exploitation, severe physical abuse or a pattern of abuse, the care, guidance or control necessary for the child's physical, educational, moral or emotional well-being, except that nonaccidental or inadequately explained serious physical injury to a child shall constitute prima facie evidence of acts of parental commission or omission sufficient for the termination of parental rights; (D) there is no ongoing parent-child relationship, which means the relationship that ordinarily develops as a result of a parent having met on a day-to-day basis the physical, emotional, moral and educational needs of the child and to allow further time for the establishment or reestablishment of such parent-child relationship would be detrimental to the best interest of the child; (E) the parent of a child under the age of seven years who is neglected or uncared for, has failed, is unable or is unwilling to achieve such degree of personal rehabilitation as would encourage the belief that within a reasonable period of time, considering the age and needs of the child, such parent could assume a responsible position in the life of the child and such parent's parental rights of another child were previously terminated pursuant to a petition filed by the Commissioner of Children and

296 Families; (F) the parent has killed through deliberate, nonaccidental act  
297 another child of the parent or a child in the custody of such parent or  
298 has requested, commanded, importuned, attempted, conspired or  
299 solicited such killing or has committed an assault, through deliberate,  
300 nonaccidental act that resulted in serious bodily injury of another child  
301 of the parent or a child in the custody of such parent; or (G) the parent  
302 was convicted as an adult or a delinquent by a court of competent  
303 jurisdiction of a sexual assault resulting in the conception of the child,  
304 except a conviction for a violation of section 53a-71 or 53a-73a,  
305 provided the court may terminate such parent's parental rights to such  
306 child at any time after such conviction.

307 Sec. 7. Section 54-86l of the general statutes is repealed and the  
308 following is substituted in lieu thereof (*Effective October 1, 2009*):

309 (a) Notwithstanding any other rule of evidence or provision of law,  
310 a statement by a child under thirteen years of age relating to a sexual  
311 offense committed against that child, or an offense involving physical  
312 abuse committed against that child by a person or persons who had  
313 authority or apparent authority over the child, shall be admissible in a  
314 criminal or juvenile delinquency proceeding if: (1) The court finds, in a  
315 hearing conducted outside the presence of the jury, if any, that the  
316 circumstances of the statement, including its timing and content,  
317 provide particularized guarantees of its trustworthiness, (2) the  
318 statement was not made in preparation for a legal proceeding, (3) the  
319 proponent of the statement makes known to the adverse party an  
320 intention to offer the statement and the particulars of the statement  
321 including the content of the statement, the approximate time, date and  
322 location of the statement, the person to whom the statement was made  
323 and the circumstances surrounding the statement that indicate its  
324 trustworthiness, at such time as to provide the adverse party with a  
325 fair opportunity to prepare to meet it, and (4) either (A) the child  
326 testifies and is subject to cross-examination at the proceeding, or (B)  
327 the child is unavailable as a witness and (i) there is independent  
328 nontestimonial corroborative evidence of the alleged act, and (ii) the  
329 statement was made prior to the defendant's arrest or institution of

330 juvenile proceedings in connection with the act described in the  
331 statement.

332 (b) Nothing in this section shall be construed to (1) prevent the  
333 admission of any statement under another hearsay exception, (2) allow  
334 broader definitions in other hearsay exceptions for statements made by  
335 children under thirteen years of age at the time of the statement  
336 concerning any alleged act described in subsection (a) of this section  
337 than is done for other declarants, or (3) allow the admission pursuant  
338 to the residual hearsay exception of a statement described in  
339 subsection (a) of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2009</i>	46b-129(b)
Sec. 2	<i>October 1, 2009</i>	46b-129(j)
Sec. 3	<i>October 1, 2009</i>	46b-129(k)(1)
Sec. 4	<i>October 1, 2009</i>	17a-28(f)
Sec. 5	<i>October 1, 2009</i>	New section
Sec. 6	<i>October 1, 2009</i>	17a-112(j)
Sec. 7	<i>October 1, 2009</i>	54-86l

***Statement of Legislative Commissioners:***

In section 6(f), the new language at the end of the subsection is repeated in the first clause of the subsection for clarity.

***HS***      ***Joint Favorable Subst.***